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1 A. That is right.

2 Q. And you refused to sign off, right?

3 A. That is correct.

4 Q. Why?

5 A. Because I didn't see any need for me to sign

6 this.

7 Q. Well, you knew that Ms. Garcia had a right

8 to utilize the informal grievance process. You knew

9 that, right?

10 A. Sure.

11 Q. And did you -- did you think that as her

12 supervisor that you had the right to refuse to sign off

13 that you had --

14 A. Yes, I have the right to refuse to sign any

15 document presented to me.

16 Q. Who told you that?

17 A. Nobody told me that.

18 Q. There's no policy in the City of Farmington

19 that gives you that right, is there? I mean, there's not

20 any policy that gives you that right, is there, sir?

21 A. No.

22 Q. Now, have you read the first paragraph

23 carefully?

24 A. Not carefully but I know the -- I know what

25 it's about.

1 sav to her?

2 A. I don't remember exactly what I said to her.

3 Q. But you're absolutely sure,

4 hands-in-the-fire sure that it was not in the form of a

5 reprimand, right?

6 A. I am to the best of my recollection, no. It

7 was not a reprimand.

8 Q. You don't know what it says but to the best

9 of your recollection it wasn't a reprimand, right?

10 A. That is correct. That was not the intent of

11 that e-mail.

12 Q. What was the intent of the e-mail?

13 A. To help Juanita get her timekeeping correct.

14 Q. Why couldn't you have just talked to her

15 about it?

16 A. I don't know what the circumstances were.

17 Q. All right.

18 A. Possibly she was on graveyard shift and I

19 couldn't talk to her in person. I can't say for sure. I

20 do not know why.

21 (Marked Miller Exhibit No. 19.)

22 Q. (BY MR. MOZES) Let me show you Exhibit

23 No. 19.

24 A. Okay.

25 Q. Now, Exhibit No. 19 you'll see is a document

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1 Q. All right. Is there anything, anything in

2 that paragraph that you believe is factually incorrect as

3 you sit there today?

4 A. Yes. First thing I see is "reprimanding

5 me." I was not reprimanding Juanita.

6 Q. Okay.

7 A. The statement that, "This memo is another

8 form of harassment," I don't agree with that.

9 Q. Okay.

10 A. And the statement that it is done in

11 retaliation for comments that she made about not being

12 scheduled, I don't agree with that. I don't agree that

13 it was an attempt to disparately treat her and discredit

14 her service.

15 I don't agree with the statement that this

16 treatment has continued and that it is an example of how

17 she's treated differently and discriminated against. I

18 do not agree with that. And I disagree with the

19 statement that I continued to harass Ms. Garcia and

20 retaliate against her.

21 And I don't believe that I was in violation

22 of the CBA or any other law and I don't know anything

23 about the HR Department being previously notified. And

24 that's all I have to say about that.

25 Q. When you sent her that e-mail what did you

1 related to an incident involving you, sir. Have you ever

2 seen this document before?

3 A. I -- I don't believe I have, no.

4 Q. Did you say "no"?

5 A. That is correct.

6 Q. And but you were aware of this, right?

7 A. Yes.

8 Q. And were you aware of it through Juanita?

9 A. Yes.

10 Q. And she had a conversation with you about

11 her view of what changing her work schedule, the effect

12 that it had on her, right?

13 A. Yes.

14 Q. And let's just go through this. Did you

15 indeed change Ms. Garcia's work schedule in mid March of

16 2012 and move her from her normal day off?

17 A. I did.

18 Q. What was the reason you did that?

19 A. To avoid paying overtime.

20 Q. Okay. We're just going to go through this

21 here. And you agree that the work week there at the

22 Generation Division began on Sunday and ended on

23 Saturday, right?

24 A. Yes.

25 Q. And is it true that Ms. Garcia had been

20 (Pages 77 to 80)

IAL COURT REPORTERS

EXHIBIT

V

PAUL BACA PROFESSIO